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Letter dated 21 March 2016 from the Permanent Representative of Libya to the United Nations addressed to the President of the Security Council

I have the honour to write to you in your capacity as President of the Security Council for the month of March 2016 to draw your attention to the substantial losses suffered by the Libyan Investment Authority (LIA) under the current sanctions regime due to its inability to direct account holders to manage properly the frozen assets. The Libyan authorities concerned kindly request the Security Council to take urgent action to amend resolutions 1970 (2011), 1973 (2011) and 2009 (2011) to explicitly allow the LIA to engage in fund management within the frozen accounts to prevent the further dissipation of LIA assets.

The Libyan authorities are not requesting any assets to be unfrozen, but rather, they are requesting a Security Council resolution provision that will explicitly permit the movement of funds between frozen accounts and will permit the reinvestment of funds and the closing and opening of accounts, so that the value of LIA assets may be protected and returns can be maximized, during the time that they remain frozen.

LIA assets remain frozen pursuant to resolutions 1970 (2011) and 1973 (2011), as amended in resolution 2009 (2011). When the assets freeze was originally put in place, it was of course not intended as a punishment to Libya, but rather a protective measure to protect the assets against dissipation during the revolution and the transition after the fall of the Gaddafi regime. Yet the assets freeze is now having a very serious negative impact on the interests of the Libyan people.

The LIA estimates that in 2014 alone, instead of increasing the value of its assets base, it had real losses of $721 million. Furthermore, it lost an additional $1.6 billion to $2.3 billion in what would have been returns on investment if its assets had been properly invested in conservative investments with competitive interest rates.

To elaborate more on this, the LIA has three main investment portfolios: equity investments, fixed income investments and alternative investments. The LIA has no access to its equity portfolio and, hence, cannot respond to market changes or currency fluctuations, which erode the value of that portfolio further. Moreover, most of the bonds the LIA had in its fixed income portfolio have matured, and the proceeds are in frozen accounts, where they are earning zero or negative interest rates. Also, the alternatives portfolio is inaccessible to the LIA external managers, who still charge management fees, even though they are not managing the funds. In

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fact, if the fund is underperforming, the LIA is not able to close the fund or transfer it to another manager. Thus, there is no incentive for financial institutions and managers holding LIA funds to provide competitive interest rates or to manage funds effectively.

The Panel of Experts on Libya acknowledged this problem in its report to the Security Council dated 3 March 2016 (S/2016/209), stating in paragraph 257: "It was clearly not the aim of the Security Council that the investments should be diminished, meaning that this matter needs to be clarified, preferably by including an explicit exemption for fund management in a future resolution". Furthermore, the Panel's recommendation 8 provides: "To explicitly allow and encourage the reinvestment of assets frozen under the measures, in consultation with the Government of Libya, in order to protect the value of investments of designated individuals and entities".

In order to accomplish this critical objective, the Libyan authorities request that the following language be included in a new Security Council resolution:

(a) The LIA shall not be prohibited from the movement of funds between accounts, the closing and opening of accounts, the liquidation of accounts and the investment and reinvestment of its funds or other financial assets and economic resources, provided that such actions meet the following three requirements: (i) any transfer is to a frozen account that is in the same name as the transferor; (ii) the transfer does not represent, directly or indirectly, a transfer of any interest of the LIA to any other person subject to sanctions under the Security Council; and (iii) the transfer is in accordance with the applicable procedures of the Member State(s) which have jurisdiction over the funds or other financial assets and economic resources;

(b) The Libyan Government shall report to the Sanctions Committee all transactions performed by the LIA pursuant to and in compliance with this resolution, and the Sanctions Committee shall provide guidance to Member States with regard to the implementation of this resolution.

The requested amendment to the above-mentioned Security Council resolutions is intended to safeguard the interests of the Libyan people while keeping all LIA assets frozen.

I would appreciate the understanding and support of the Security Council members for this modest but critical change to the sanctions regime, to ensure the protection of the value of the LIA assets for the benefit of all Libyan people.

I look forward to a swift action by the Security Council on this issue.

(*Signed*) Ibrahim O. A. **Dabbashi**
Ambassador
Permanent Representative